

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

<b>IN THE MATTER OF:</b>  <b>CITY OF ST. DONATUS</b> <b>NPDES Permit #4979001</b>	<b>ADMINISTRATIVE CONSENT ORDER</b> <b>NO. 2016-WW- 23</b>
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**TO:** City of St. Donatus  
James Roling, Mayor  
P.O. Box 73  
St. Donatus, IA 52071

**I. SUMMARY**

This administrative consent order ("Order") is entered into between the City of St. Donatus ("St. Donatus") and the Iowa Department of Natural Resources ("DNR") for the purpose of achieving and maintaining compliance with the terms of the city's National Pollutant Discharge Elimination System ("NPDES") permit. Pursuant to this Order, St. Donatus shall comply with the schedule contained herein.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

Sue Miller  
Field Office 1  
Iowa Department of Natural Resources  
909 W. Main St., Suite 4  
Manchester, Iowa 52057  
Ph. 563-927-2640

**Relating to legal requirements:**

John Crotty  
Legal Services Bureau  
Iowa Department of Natural Resources  
502 E. 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034  
Ph. 515-725-8249

**II. JURISDICTION**

This Order is issued pursuant to Iowa Code 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 and the rules adopted or permits issued pursuant thereto.

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**III. STATEMENT OF FACTS**

1. St. Donatus owns and operates a two cell waste stabilization lagoon which was constructed in 1971. The facility is permitted under NPDES permit # 4979001.
2. The facility has discharged only once since its construction. This single discharge occurred during a flood event in 2002. On September 27, 2010, St. Donatus submitted an engineering report to DNR which showed the lagoons were leaking at a rate of approximately 1/4 inch per day. Design standards in effect at the time of the facility's construction required a leakage rate less than 1/8 inch per day.
3. On November 3, 2010, St. Donatus submitted to DNR a proposed schedule of compliance for fixing the leaking lagoons. The schedule proposed that the project would be completed in August 2012. Since submitting the schedule of compliance, the city has submitted a series of extension requests to DNR.
4. St. Donatus was designated as a Disadvantaged Community on April 28, 2014. The Disadvantaged Community status was based on costs necessary to expand the existing facility to a three cell system. The Disadvantaged Community determination letter from DNR made clear that the Disadvantaged Community status did not apply to the lagoon re-lining and lift station project.
5. On April 26, 2016, DNR issued a construction permit which authorized re-lining of the lagoons and construction of a lift station between the two cells. The construction permit expires one year after issuance.
6. On June 29, 2016, St. Donatus was denied funding through a Community Development Block Grant ("CDBG"). St. Donatus advised DNR that it wished to delay the project in order to submit a new CDBG application. The city advised DNR that it now anticipates construction will be complete in the fall of 2018.

**IV. CONCLUSIONS OF LAW**

DNR and St. Donatus agree that the following Conclusions of Law are applicable to this matter:

1. Iowa Code 455B.173(3) authorizes and requires the Environmental Protection Commission ("Commission") to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 Iowa Administrative Code ("IAC") chapters 60 through 69. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit.

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2. Standard Condition #9 in St. Donatus' NPDES permit provides that St. Donatus' facility shall be operated as efficiently as possible and shall be maintained in good working order.

3. The facts set out in section III of this Order demonstrate violations of 567 IAC 64.3(1) and Standard Condition #9 of St. Donatus' NPDES permit.

**V. ORDER**

Therefore, DNR orders and St. Donatus agrees to do the following:

1. Within 30 days after the Director signs this Order, St. Donatus shall submit a request to DNR's Wastewater Engineering Section for an extension of the construction permit issued April 26, 2016.

2. By July 1, 2017, St. Donatus shall begin re-lining the lagoon cells and constructing a lift station.

3. By December 1, 2017, St. Donatus shall submit a progress report to DNR.

4. By July 1, 2018, St. Donatus shall complete re-lining the lagoon cells and constructing a lift station.

**VI. PENALTY**

1. Iowa Code 455B.191 authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the violations involved in this matter.

2. Iowa Code 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10. DNR is not assessing a penalty against St. Donatus at this time. St. Donatus has been designated as a Disadvantaged Community. Significant delays have occurred since St. Donatus was first notified that it must re-line its lagoon cells, however, the city has acted in good faith thus far and DNR believes it will continue to do so. DNR will consider assessing penalties against St. Donatus if the city does not comply with the terms of this Order.


**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code 455B.175(1) and 561 IAC 7.4(1), as adopted by reference by 567 IAC 7.1, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of St. Donatus. By signing this Order, all rights to appeal this Order are waived.

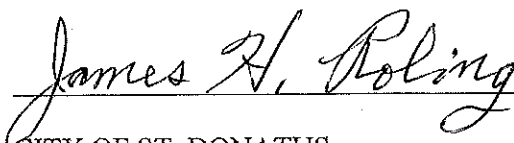
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VIII. NONCOMPLIANCE

Compliance with section V of this Order constitutes full satisfaction of all requirements pertaining to the specific violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code 455B.191.

  
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CHUCK GIPP, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 13<sup>th</sup> day of  
December 2016

  
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CITY OF ST. DONATUS

Dated this 7 day of  
December, 2016

NPDES #4979001; Field Office #1; John Crotty; WES; EPA; I.B.2.d